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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,096	10/17/2003	Tomoko Sugito	121027-0201	9087
35684	7590	10/06/2005	EXAMINER	
BUTZEL LONG 350 SOUTH MAIN STREET SUITE 300 ANN ARBOR, MI 48104			STEPHENS, JACQUELINE F	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/688,096	Applicant(s) SUGITO ET AL.	
	Examiner Jacqueline F. Stephens	Art Unit 3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☐ Responsive to communication(s) filed on \_\_\_\_.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-10 is/are rejected.

7) ☐ Claim(s) \_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☒ All    b) ☐ Some \*    c) ☐ None of:

        1. ☒ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/28/04</u> .	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____.
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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Numano 5447508 in view of Kumasaka USPN 6482195. Numano describes a disposable pants-type wearing articles comprising an elastically stretchable chassis (col. 3, lines 11-12), front and rear waist regions, a liquid absorbent panel attached to an inner surface of the outer sheet (Figure 1 and col. 4, lines 20-54). The article comprises a first elastic segment extending in the leg holes 11A-11C, 12A-12C, and a second elastic segment extending in the crotch region (Figure 1). However, Numano does not

disclose the stretch stress of the elastics and the relationship between the leg-circumferential stretch stress and transverse stretch stress. Kumasaka teaches compression marks might be left on the front thighs if the stretch stress is uniform in all the elastic members and the stretch stress is relatively high. Kumasaka further teaches it is possible to alleviate the problem of compression marks by varying the stretch stress of elastic members in the leg and crotch regions from the elastic placed toward the front and rear panels. Kumasaka teaches varying the stretch stress in the elastic members helps to alleviate the possibility of compression marks and simultaneously provides a fit around the wearer's thighs (col. 1, line 51 through col. 2, line 2, col. 7, line 25 through col. 8, line 9). One having ordinary skill in the art would have been motivated, based on the teachings of Kumasaka to vary the stretch stress in the waist region's upper margin to be higher or lower than the leg-circumferential stretch stress to reduce compression marks and discomfort to the wearer.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Numano 5447508 in view of Kumasaka USPN 6482195 and further in view of Mishima EP 1243237. Numano/Kumasaka disclose the present invention except for an annular protrusion. Mishima discloses such a protrusion in an absorbent article for the benefit of guiding bodily discharge into a receptacle. It would have been obvious to one having ordinary skill the art to modify the invention of Numano/Kumasaka to provide an protrusion/receptacle for the benefit of guiding waste and also separating solid waste from urine, which can lead to diaper rash.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jacqueline F. Stephens  
Examiner  
Art Unit 3761

September 30, 2005